

REMARKS / DISCUSSION OF ISSUES

Claims 1-13 are pending in the application. Claims 1 and 10 are independent.

By this response, claims 1-13 have been amended to clarify certain aspects of the claimed invention. No new subject matter is added.

Claim Objections

Claims 1 and 10 are objected to because the claims recite blank parenthesis.

Applicants have removed the blank parenthesis in claims 1 and 10. As such, Applicants respectfully request the withdrawal of the objections of claims 1 and 10.

Rejections under 35 U.S.C § 103

Claim 1-13 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Law (7712031, "Law") in view of Hiipakka (2003/0098892, "Hiipakka"). Applicants respectfully traverse these rejections.

Claim 1 requires in part the feature of:

a relevant auditory icon ($I_1, I_2, I_3, \dots, I_n$) selected from the unique set of auditory icons ($S_1, S_2, S_3, \dots, S_n$) of the respective application ($A_1, A_2, A_3, \dots, A_n$). Emphasis added.

On page 3 of the Office Action, it is alleged that Law at Fig. 4, lines 35-55 [the col. # is omitted], and column 5, lines 20-50 teaches or suggests a relevant auditory icon ($I_1, I_2, I_3, \dots, I_n$) selected from the unique set of auditory icons ($S_1, S_2, S_3, \dots, S_n$) of the respective application ($A_1, A_2, A_3, \dots, A_n$).

Applicants have reviewed Law in its entirety and respectfully assert that Law does not disclose or suggest at least the part of claim 1 mentioned above.

Law relates to an Interactive Voice Response (IVR) system for developing a voice application (Title). The Office Action on page 3 concedes that Law does not go into the details that each application element is a separate application per se, but alleges that Law does show distinguishing different functions with auditory icons. At page 4, paragraph 10, the Office Action alleges that Law at column 4, lines 15-49 and column 5, lines 45-60 teaches the dialog auditory elements are selected, placed, and

modified. Therefore, the Office Action apparently considers that Law's application element is equivalent to a dialog auditory element, and thus, Law allegedly teaches an application element may be selected, placed, and modified.

Law, at column 4, lines 3-48, appears to teach that a dialog element may be represented by an icon in a dialog palette, where each dialog element represents a component of the voice application. At column 6, lines 3-24, Law appears to teach that an extended VoiceXML tag attribute provides additional information about the dialog element. Therefore, one can reasonably interpret that the Office Action equates Law's VoiceXML tag attributes to the feature of an auditory icon of the respective application, as set forth in claim 1. (See Office Action, page 2, paragraph 5, citing Law at abstract, Figures 4-5, column 1, lines 55-57, and column 4, lines 3-30).

However, Law does not teach or suggest a relevant auditory icon selected from the unique set of auditory icons of the respective application. Instead, Law appears to teach that the VoiceXML tag is generated by a generator. (See Law at least at column 5, line 31-32, "For each visited dialog element, Voice XML code is generated from its corresponding VoiceXML template. . . ." See also Law at abstract, "a code generator for generating at least one voice language module for the application. . . .").

Although Law may teach that a voice language module for an application is generated by a code generator, Law does not select a relevant auditory icon from a unique set of auditory icons. Thus, Law does not teach or suggest the features of a relevant auditory icon ($I_1, I_2, I_3, \dots, I_n$) selected from the unique set of auditory icons ($S_1, S_2, S_3, \dots, S_n$) of the respective application ($A_1, A_2, A_3, \dots, A_n$), as required in Applicants' claim 1.

Hiipakka does not cure the deficiencies of Law with respect to claim 1. Furthermore, the Office Action does not rely on Hiipakka for teaching or suggesting the features of a relevant auditory icon ($I_1, I_2, I_3, \dots, I_n$) selected from the unique set of auditory icons ($S_1, S_2, S_3, \dots, S_n$) of the respective application ($A_1, A_2, A_3, \dots, A_n$). Thus, Applicants respectfully assert that claim 1 is patentable over the combination of Law and Hiipakka.

Independent claim 10 differs from claim 1 and requires consideration on its own merit. However, claim 10 includes, for example, the features of:

an auditory icon management unit for selecting relevant auditory icons ($I_1, I_2, I_3, \dots, I_n$) from the unique sets of auditory icons ($S_1, S_2, S_3, \dots, S_n$) corresponding to the applications ($A_1, A_2, A_3, \dots, A_n$) for playback at specific points in the dialog flow.

The Office Action uses substantially the same arguments as set forth with regard to claim 1, alleging that independent claim 10 is unpatentable over the combination of Law and Hiipakka. However, neither Law nor Hiipakka, separately or in combination, teaches or suggests the features of an auditory icon management unit for selecting relevant auditory icons ($I_1, I_2, I_3, \dots, I_n$) from the unique sets of auditory icons ($S_1, S_2, S_3, \dots, S_n$) corresponding to the applications ($A_1, A_2, A_3, \dots, A_n$) for playback at specific points in the dialog flow.

As such, Applicants respectfully submit that claim 10 is allowable over the combination of Law and Hiipakka and respectfully request the withdrawal of the rejection of independent claim 10 under 35 U.S.C. 103(a).

Claims 2-9 and 11-13 ultimately depend from and incorporate all the features of either allowable claim 1 or 10. Furthermore, each dependent claim includes additional distinguishing features. For each dependent claim, Applicants apply the above arguments from claims 1 or 10 to each of dependent claims 2-9 and 11-13. Thus, Applicants respectfully assert that these dependent claims are allowable at least by virtue of their dependency on an allowable parent claim.

Applicants respectfully assert that the rejection of claims 1-13 under 35 U.S.C. §103(a) has been traversed and respectfully request the withdrawal of the rejection of these claims.

Rejections under 35 U.S.C § 101

Claim 13 stands rejected under 35 U.S.C § 101 because the claimed invention is allegedly directed to non-statutory subject matter. The Office Action asserts that claim 13 recites a computer product comprising software code and alleges that this is not statutory subject matter. Applicants respectfully traverse.

Claim 13 recites:

A computer program product directly loadable into the memory of a programmable dialog management system comprising software code portions for performing the steps of a method according to claim 1 when said product is run on the dialog management system. Emphasis added.

Claim 13 requires the computer program product is directly loadable into the memory of a programmable dialog management system. The computer program product of claim 13 is implemented in hardware and thus falls into the category of a "machine" under 35 U.S.C. 101. Furthermore, there is no prohibition against functions being realized by the execution of a computer program. The BPAI recently reminded an Examiner in *Ex parte* William E. Mazzara, Decided: February 5, 2009 that "[c]laims should be evaluated by their limitations, not by what they incidentally cover." *In re Warmerdam*, 33 F.3d 1354, 1359 (Fed. Cir. 1994).

Accordingly, Applicants assert that claim 13 recites statutory subject matter, and therefore respectfully request the withdrawal of the rejection of claim 13 under 35 U.S.C § 101.

Conclusion

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance.

If there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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